

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

BMO HARRIS BANK N.A.

PLAINTIFF

V.

CIVIL ACTION NO.: 1:18-cv-14-SA-DAS

MONTANA FARMS, LLC,
ALONZO SYKES,
ANGELENA COOK, and
TERRY MCINTOSH

DEFENDANTS

ORDER ON MOTION FOR TRO

On January 30, 2018, Plaintiff filed its Complaint [1], and a Motion for Temporary Restraining Order (TRO) and Preliminary Injunction [3]. On February 19, 2018, personal service was accomplished by process server on Defendants Terry McIntosh and Angelena Cook, individually. Thereafter, Plaintiff filed a “Supplemental Certificate of Service,” certifying that true copies of relevant pleadings were mailed to the attorneys who have appeared for Defendants Montana Farms, LLC, Angelena Cook, and Terry McIntosh. Plaintiff has not completed service upon Alonzo Sykes, and though the pleadings were mailed to Montana Farms’ attorney, there is no evidence that Montana Farms was properly served.

Federal Rule of Civil Procedure 65(b) provides that “the Court may issue a temporary restraining order without written or oral notice to the adverse party only if:

- (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and
- (B) the movant’s attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.”

FED. R. CIV. P. 65(b)(1). Plaintiff’s counsel has not certified in writing efforts taken to give notice to all Defendants, nor provided the court with an explanation of why notice should

not be required, as directed by Rule 65(b)(1)(B). As Plaintiff has failed to meet the standard required by Rule 65, the TRO may not be granted *ex parte*. Additionally, the Court may issue a preliminary injunction only on notice to the adverse parties. FED. R. CIV. PROC. 65(a)(1).

Accordingly, the Court denies without prejudice Plaintiff's request for TRO and holds in abeyance ruling on Plaintiff's Motion for Preliminary Injunction pending proper service to all adverse parties and subsequent hearing on the motion.

SO ORDERED this the 7th day of March, 2018.

/s/ Sharion Aycock

UNITED STATES DISTRICT JUDGE